

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 1161

Introduced by Senator Padilla

(Principal coauthor: Assembly Member Bradford)

(Coauthors: Senators Fuller, Rubio, and Strickland)

February 22, 2012

An act to ~~amend Section 709 of~~ *add Sections 239 and 710 to the* Public Utilities Code, relating to communications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Padilla. Communications: ~~state policies. Voice over Internet Protocol and Internet Protocol enabled communications service.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined.

This bill would prohibit the commission from regulating Voice over Internet Protocol (VoIP) and Internet Protocol enabled service (IP enabled service), as defined, providers unless expressly provided otherwise in statute. The bill would prohibit any department, agency, commission, or political subdivision of the state from enacting, adopting, or enforcing any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law, that regulates or has the effect of regulating VoIP or other IP enabled service, unless expressly authorized by statute. The bill would specify certain areas of law that are expressly applicable to VoIP and IP enabled service providers.

~~Existing law declares the policies for telecommunications for California, including to encourage the development and deployment of~~

~~new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.~~

~~This bill would make a technical, nonsubstantive change to the above-described statement of policy.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The continued vitality and success of California's technology
4 and innovation sector of the economy is dependent on a business
5 climate that supports the national and international nature of the
6 Internet.

7 (2) The Legislature is empowered to develop future state policy
8 and actions regarding Internet-based technology to further
9 innovation, consumer choice and protection, and economic benefits
10 to California.

11 (3) California's innovation economy is leading the state's
12 economic recovery. Silicon Valley alone added 42,000 jobs in
13 2011, an increase of 3.8 percent versus a national job growth rate
14 of 1.1 percent. The newly designated "app," for application,
15 economy has resulted in 466,000 new jobs nationwide, with 25
16 percent of that total created in California.

17 (4) The Internet and Internet Protocol-based (IP-based) services
18 have flourished to the benefit of all Californians under the current
19 regulatory structure. The success of the innovation economy is a
20 result of an open, competitive environment that has provided
21 California consumers and businesses with a wide array of choices,
22 services, and prices.

23 (5) California-based entrepreneurs and businesses are the global
24 leaders in IP-based services and technologies. These leading
25 technology companies, including content, services and
26 infrastructure providers, represent some of the largest employers
27 in California, contributing billions of dollars of economic benefit
28 to the state.

29 (6) California consumers and businesses are driving the demand
30 for faster networks, new and innovative apps and software, and

1 continued innovation. As a result of this demand, network
2 infrastructure companies invested billions of dollars in California
3 in 2011. Internet voice communications connections are up over
4 22 percent, and entrepreneurs and innovators have launched close
5 to a million apps to meet consumer demand.

6 (7) The Internet and innovative IP-based services have the power
7 to address critical policy issues facing California and the nation
8 including new telemedicine initiatives to address health care access
9 and affordability, educational tools to improve opportunity and
10 success, IP-based energy solutions to promote conservation and
11 efficiency, and improved Internet access to support rural economic
12 development and sustainability.

13 (b) It is the intent of this act to reaffirm California's current
14 policy of regulating Internet-based services only as specified by
15 the Legislature and thereby achieve both of the following:

16 (1) Preserve the future of the Internet by encouraging continued
17 investment and technological advances and supporting continued
18 consumer choice and access to innovative services that benefit
19 California.

20 (2) Ensure a vibrant and competitive open Internet that allows
21 California's technology businesses to continue to flourish and
22 contribute to economic development throughout the state.

23 ~~SECTION 1. Section 709 of the Public Utilities Code is~~
24 ~~amended to read:~~

25 ~~709. The Legislature hereby finds and declares that the policies~~
26 ~~for telecommunications in California are as follows:~~

27 ~~(a) To continue our universal service commitment by assuring~~
28 ~~the continued affordability and widespread availability of~~
29 ~~high-quality telecommunications services to all Californians.~~

30 ~~(b) To focus efforts on providing educational institutions, health~~
31 ~~care institutions, community-based organizations, and~~
32 ~~governmental institutions with access to advanced~~
33 ~~telecommunications services in recognition of their economic and~~
34 ~~societal impact.~~

35 ~~(c) To encourage the development and deployment of new~~
36 ~~technologies and the equitable provision of communications~~
37 ~~services in a way that efficiently meets consumer need and~~
38 ~~encourages the ubiquitous availability of a wide choice of~~
39 ~~state-of-the-art services.~~

1 ~~(d) To assist in bridging the “digital divide” by encouraging~~
2 ~~expanded access to state-of-the-art technologies for rural,~~
3 ~~inner-city, low-income, and disabled Californians.~~

4 ~~(e) To promote economic growth, job creation, and the~~
5 ~~substantial social benefits that will result from the rapid~~
6 ~~implementation of advanced information and communications~~
7 ~~technologies by adequate long-term investment in the necessary~~
8 ~~infrastructure.~~

9 ~~(f) To promote lower prices, broader consumer choice, and~~
10 ~~avoidance of anticompetitive conduct.~~

11 ~~(g) To remove the barriers to open and competitive markets and~~
12 ~~promote fair product and price competition in a way that~~
13 ~~encourages greater efficiency, lower prices, and more consumer~~
14 ~~choice.~~

15 ~~(h) To encourage fair treatment of consumers through provision~~
16 ~~of sufficient information for making informed choices,~~
17 ~~establishment of reasonable service quality standards, and~~
18 ~~establishment of processes for equitable resolution of billing and~~
19 ~~service problems.~~

20 ~~SEC. 2. Section 239 is added to the Public Utilities Code, to~~
21 ~~read:~~

22 ~~239. (a) “Voice over Internet Protocol” or “VoIP” means~~
23 ~~voice communications service that does all of the following:~~

24 ~~(1) Uses Internet Protocol or a successor protocol to enable~~
25 ~~real-time, two-way voice communication that originates from or~~
26 ~~terminates at the user’s location in Internet Protocol or a successor~~
27 ~~protocol.~~

28 ~~(2) Requires a broadband connection from the user’s location.~~

29 ~~(3) Permits a user generally to receive a call that originates on~~
30 ~~the public switched telephone network and to terminate a call to~~
31 ~~the public switched telephone network.~~

32 ~~(b) “Internet Protocol enabled service” or “IP enabled service”~~
33 ~~means any service, capability, functionality, or application using~~
34 ~~Internet Protocol, or any successor protocol, that enables an end~~
35 ~~user to send or receive a communication in Internet Protocol~~
36 ~~format, or any successor format, regardless of whether the~~
37 ~~communication is voice, data, or video.~~

38 ~~SEC. 3. Section 710 is added to the Public Utilities Code, to~~
39 ~~read:~~

1 710. (a) *The commission shall not exercise regulatory*
2 *jurisdiction or control over Voice over Internet Protocol and*
3 *Internet Protocol enabled service providers except as expressly*
4 *directed to do so by statute or as set forth in subdivision (c).*

5 (b) *No department, agency, commission, or political subdivision*
6 *of the state shall enact, adopt, or enforce, either directly or*
7 *indirectly, any law, rule, regulation, ordinance, standard, order,*
8 *or other provision having the force or effect of law, that regulates*
9 *or has the effect of regulating VoIP or other IP enabled service,*
10 *unless expressly authorized by statute or pursuant to subdivision*
11 *(c).*

12 (c) *Nothing in this section affects or supersedes any of the*
13 *following:*

14 (1) *The Emergency Telephone Users Surcharge Law (Part 20*
15 *commencing with Section 41001) of Division 2 of the Revenue*
16 *and Taxation Code) and the state's universal service programs*
17 *(Section 285).*

18 (2) *The Digital Infrastructure and Video Competition Act of*
19 *2006 (Division 2.5 (commencing with Section 5800)) or a franchise*
20 *granted by a local franchising entity, as those terms are defined*
21 *in Section 5830.*

22 (3) *The commission's authority to implement and enforce*
23 *Sections 251 and 252 of the federal Communications Act of 1934,*
24 *as amended (47 U.S.C. Secs. 251 and 252).*

25 (4) *The commission's authority to require data and other*
26 *information pursuant to Section 716.*

27 (5) *The commission's authority to address or affect the*
28 *resolution of disputes regarding intercarrier compensation,*
29 *including for the exchange of traffic that originated, terminated,*
30 *or was translated at any point into Internet Protocol format.*

31 (6) *The enforcement of criminal or civil laws of general*
32 *applicability, including unfair or deceptive trade practice laws,*
33 *that apply to the conduct of business.*